

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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RELIANCE COMMUNICATIONS LLC,

Plaintiff,

-against-

RETAIL STORE VENTURES, INC. and BRADLEY CHURCH,

Defendants.
-----X

ORDER

12-CV-2067 (ADS) (AKT)

APPEARANCES:

Certilman Balin Adler & Hyman, LLP

Attorneys for the Plaintiff

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Attorney for the Defendant Bradley Church

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By: Elizabeth Ann Chew, Esq., Of Counsel

NO APPEARANCE:

Retail Store Ventures, Inc.

SPATT, District Judge.

On April 27, 2012, the Plaintiff Reliance Communications LLC (“The Plaintiff”) commenced this action against the Defendants Retail Store Ventures, Inc. (“Retail Store Ventures”), and Bradley Church (“Church” and collectively, “the Defendants”). The Plaintiff asserts claims for breach of contract and an account stated.

On November 13, 2012, the Clerk of the Court noted the default of Retail Store Ventures. On December 12, 2012, the Plaintiff moved for a default judgment. Thereafter, on February 28, 2013, the Court referred this matter to United States Magistrate Judge A. Kathleen Tomlinson for a recommendation as to whether the motion for a default judgment should be granted, and if so,

(1) whether damages should be awarded, including reasonable attorney's fees and costs, and (2) whether any other relief should be granted.

On August 7, 2013, Judge Tomlinson issued a Report and Recommendation ("the Report"), recommending that the Court enter a default judgment against Retail Store Ventures, but postpone the calculation of damages against Retail Store Ventures until the case is resolved as to both the Defendants, including the cross-claims. On August 8, 2013, the Plaintiff served the Report on Retail Store Ventures. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Tomlinson's Report, it is hereby

ORDERED, that Judge Tomlinson's Report and Recommendation is adopted in its entirety. The Court enters a default judgment against Retail Store Ventures, but postpones the calculation of damages against Retail Store Ventures until the case is resolved as to both the Defendants, including the cross-claims. To that end, the Plaintiff is directed to renew its motion for damages at the appropriate time.

SO ORDERED.

Dated: Central Islip, New York
August 29, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge